

CHAPTER 41

CONTINUING LEGAL EDUCATION FOR LAWYERS

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CHAPTER 41

CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.1 Purpose. Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so shall be grounds for disciplinary action by the supreme court. This chapter establishes minimum requirements for such continuing legal education and the means by which the requirements shall be enforced. [Court Order April 9, 1975; November 9, 2001, effective February 15, 2002]

Rule 41.2 Continuing legal education commission.

41.2(1) There is hereby established a commission on continuing legal education consisting of 12 members. The supreme court shall appoint to the commission ten resident members of this state who are currently licensed to practice law in the state of Iowa, and two residents of this state who are not lawyers. The court shall designate from among the members of the commission a chair who shall serve as such at the pleasure of the court. Of the members first appointed to the commission four shall serve a term of three years, four shall serve a term of four years, and four shall serve a term of five years. Members thereafter appointed, except for those appointed to fill unexpired terms, shall be appointed for a term of three years. No member shall serve more than two consecutive complete terms as a member of the commission. The supreme court shall adopt rules and regulations governing the operations and activities of the commission.

41.2(2) The commission shall have the following duties:

- a. To exercise general supervisory authority over the administration of this chapter.
- b. To accredit courses, programs, and other educational activities which will satisfy the educational requirements of this chapter; all being subject to continuous review by the commission.
- c. To foster and encourage the offering of such courses, programs and educational activities.
- d. To submit to the supreme court proposed rules and regulations¹ not inconsistent with this chapter to govern the operations and activities of the commission.
- e. Subject to the approval of the supreme court, to employ such persons as it deems necessary for the proper administration of this chapter.
- f. To make recommendations to the supreme court concerning this chapter and the enforcement thereof; to present an annual budget and a recommended annual fee for costs of administering this chapter.
- g. To report promptly to the supreme court concerning any violation of this chapter by any member of the bar of this state.
- h. On March 1 of each year, and at such additional times as the supreme court may order, the commission shall file with the supreme court a written report reviewing in detail the activities of the commission during the preceding calendar year together with an audit of commission funds certified by a certified public accountant licensed to practice in Iowa.

41.2(3) Members of the commission shall not be compensated but shall be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by the supreme court.

[Court Order April 9, 1975; July 5, 1978; November 13, 1984; November 14, 1985; November 11, 1986; November 19, 1987; November 21, 1988; November 16, 1989; November 9, 2001, effective February 15, 2002; February 22, 2002; December 5, 2007]

Rule 41.3 Continuing legal education requirement.

41.3(1) Each attorney admitted to practice in this state shall complete a minimum of 15 hours of legal education accredited by the commission, during each calendar year. The commission is authorized, pursuant to guidelines established by the supreme court, to determine the number of hours for which credit will be given for particular courses, programs or other legal education activities. Under rules to be promulgated by the supreme court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited education during any one calendar year.

41.3(2) The 15 hours required by rule 41.3(1) shall include a minimum of 2 hours, every two calendar years, devoted exclusively to the area of legal ethics. Excess hours of education devoted to

1. See Chapter 42 of the Iowa Court Rules

legal ethics can be carried over for purposes of the annual 15-hour requirement under rule 41.3(1) but cannot be carried over beyond the two-year period for the special legal ethics requirement under this rule.

41.3(3) Commencing July 1, 2002, up to 6 hours of the 15 hours required by rule 41.3(1) each calendar year may be obtained through completion of computer-based legal education accredited by the commission.

[Court Order April 9, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; February 22, 2002]

Rule 41.4 Annual fee and report by attorneys to commission.

41.4(1) On or before March 1 of each year, each attorney admitted to practice in this state shall pay to the commission a prescribed fee for costs of administering this chapter.

41.4(2) On or before March 1 of each year, each attorney admitted to practice in this state shall make a written report to the commission, in such form as the commission shall prescribe, concerning completion of accredited legal education during the preceding calendar year; provided, however, that an attorney shall not be required to comply with this rule nor comply with the continuing legal education requirements set forth in rule 41.3 for the year during which the attorney was admitted to practice. Each annual report shall be accompanied by proof satisfactory to the commission that the attorney has met the requirements for continuing legal education for the calendar year for which such report is made.

41.4(3) Each attorney admitted to practice in this state shall make a written report to the commission, in such form as the commission shall prescribe, concerning completion of accredited legal ethics education. The report is to be filed on or before March 1 following completion of each two-year period under the requirement. An attorney shall not be required to comply with this requirement for the year of admission to practice.

41.4(4) All attorneys who fail by March 1 of each year to file the annual report or to pay the prescribed fee shall, in addition, pay a penalty² as set forth in the following schedule if either the annual report is filed or the prescribed fee is paid after March 1. The penalty fees collected shall be used to pay the costs of administering this chapter, or for such other purposes within the Office of Professional Regulation as the supreme court may direct.

³Penalty Schedule:

If Filed:	Penalty:
After March 1 but before April 2	\$100
After April 1 but before May 2	\$150
After May 1	\$200

41.4(5) The commission may prescribe in electronic format for the annual report and require submission of the report in that form.

[Court Order April 9, 1975; August 28, 1975; August 12, 1980; January 8, 1988; January 24, 2000; November 9, 2001, effective February 15, 2002; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010]

Rule 41.5 Penalty for failure to satisfy continuing legal education requirements.

41.5(1) Attorneys who fail to comply with the provisions of rule 41.4 or who file a report showing on its face that they have failed to complete the required number of hours of continuing legal education may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, notice of such delinquency has been served upon them in the manner provided for the service of original notices in Iowa R. Civ. P. 1.305 or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys shall be given the opportunity during said 15 days to file in the office of professional regulation an affidavit disclosing facts demonstrating their noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of clerk of the supreme court a request for

2. The penalty prior to January 1, 2009, is \$25.

3. Penalty schedule in 41.4(4) effective January 1, 2009

hearing to show cause why their license to practice law should not be suspended. A hearing shall be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney shall be notified thereof by either of the two methods above provided for notice of delinquency.

41.5(2) Any attorney suspended pursuant to this chapter shall do all of the following:

a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.

b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file proof with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board of complete performance of the foregoing, and this shall be a condition for application for readmission to practice.

41.5(3) Any attorney suspended pursuant to this chapter shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

41.5(4) In addition, any attorney who willfully fails to comply with this chapter may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules, upon report filed by the commission with the disciplinary board.

41.5(5) For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports.

[Court Order April 9, 1975; November 21, 1977; December 6, 1978; January 15, 1979; August 12, 1980; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; April 25, 2008; June 5, 2008, effective July 1, 2008]

Rule 41.6 Confidentiality. Unless otherwise directed by the supreme court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this chapter, shall be deemed confidential and shall not be disclosed, except in furtherance of its duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this chapter.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002]

Rule 41.7 Inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption shall practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not theretofore been entitled to practice law in this state for any period of time subsequent to their admission to the bar.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002]

Rule 41.8 Application of this chapter. This chapter shall apply to every person licensed to practice law in the state of Iowa.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002]

Rule 41.9 Compliance with Iowa rules of professional conduct.

41.9(1) Each lawyer describing the lawyer's practice as permitted by Iowa Rs. of Prof'l Conduct 32:7.4(a) and (c) shall report annually the lawyer's compliance with the eligibility requirements of Iowa R. of Prof'l Conduct 32:7.4(e) on a form approved by the commission. A lawyer may report compliance with the requirement for percentage or hours of practice by providing a statement of compliance.

41.9(2) In reporting compliance with the continuing legal education requirements, the lawyer shall identify the specific courses and hours that apply to each designated or indicated field of practice. The lawyer may obtain up to six hours of the continuing legal education requirement for each designated or indicated field of practice through completion of computer-based legal education courses accredited by the commission.

41.9(3) If, due to hardship or extenuating circumstances, a lawyer is unable to complete the hours of accredited continuing legal education during the preceding calendar year as required by rule 32:7.4(e), the lawyer may apply to the commission for an extension of time in which to complete the hours. No extension of time shall be granted unless written application for the extension is made on a form prescribed by the commission. An extension of time shall not exceed a period of six months immediately following the last day of the year in which the requirements were not met.

41.9(4) The portion of the report required by this rule shall be considered public information.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 41.10 Reinstatement from suspension.

41.10(1) An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be reinstated upon a showing that such failure was not willful and by filing such report showing completion of all continuing legal education required by Iowa Ct. Rs. 41.3 and 42.2 through the end of the last complete reporting year. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule shall pay all delinquent fees and late filing penalties due under rule 41.4 and a reinstatement fee of \$100.00.

41.10(2) An attorney who applies for reinstatement from suspension under the provisions of chapter 35 of the Iowa Court Rules shall first file the annual report required by rule 41.4 showing completion of all continuing legal education required by Iowa Ct. Rs. 41.3 and 42.2 through the end of the last complete reporting year, pay all fees and late filing penalties due under rule 41.4 and unpaid at the time of the suspension, and pay a reinstatement fee of \$100.00. The commission may grant an attorney additional time after the effective reinstatement date, on such terms and conditions as it may prescribe, to complete and furnish evidence of compliance with these continuing legal education requirements.

[Court Order April 25, 2008]

Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.

41.11(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 35.21.

41.11(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 35.20.

41.11(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure shall be governed by rule 35.19.

[Court Order June 5, 2008, effective July 1, 2008]

Rule 41.12 Basic skills course requirement.

41.12(1) Every Iowa lawyer admitted to practice by examination after December 31, 2008, must complete a Basic Skills Course. The course must be completed within one year of the newly admitted lawyer's date of admission to practice in Iowa.⁴

41.12(2) The Basic Skills Course must total at least eight actual hours of instruction and include at least one actual hour qualifying for credit in the area of legal ethics. The course shall include instruction on Iowa law selected from at least eight of the following topic areas:

- Civil Procedure
- Criminal Law
- Criminal Procedure
- Family Law
- Guardianships, Conservatorships, Trusts, and Powers of Appointment
- Business Entities
- Probate
- Torts
- Contracts
- Real Estate Transactions
- Ethics and Professionalism

41.12(3) Newly admitted lawyers shall be entitled to claim credit for attendance at an accredited Basic Skills Course against the continuing legal education requirements of rules 41.3 and 42.2, but are not exempt from reporting and fee payment duties of rule 41.4.

41.12(4) A lawyer who fails to complete the Basic Skills Course within one year of the date of admission may have the right to practice law suspended under the provisions of rule 41.5.

41.12(5) The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the Basic Skills Course requirement or extensions of time in which to complete the Basic Skills Course.

41.12(6) The Basic Skills Course may be offered by any provider of continuing legal education, but must be reviewed and accredited by the Commission on Continuing Legal Education as provided in rule 42.4. The Basic Skills Course may be conducted in installments over time, and may be offered by computer-based transmission as provided in rule 42.3. Any provider of the Basic Skills Course is required to report attendance in the manner specified by the commission.

[Court Order October 9, 2009]

4. As an interim implementation provision, lawyers admitted during calendar year 2009 must complete the Basic Skills Course within two years of the newly admitted lawyer's date of admission to practice in Iowa.